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MAR 25 2004

OFFICE OF PETITIONS

In re Application of
Akella et al.
Application No. 10/027,015
Filed: December 21, 2001
Attorney Docket No. 2026-00400

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 27, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed February 14, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on July 14, 2002. A Notice of Abandonment was mailed on February 6, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply,¹
- (2) the petition fee,
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
- (4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition

¹ In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.²

The instant petition lacks item (1). The Office acknowledges the timely declaration submitted by the petitioner on July 9, 2002. However, it did not include all of the missing items as listed on the Notice; i.e., substitute drawings in compliance with 37 CFR 1.84 and appropriate sequence listing. A copy of the Notice is enclosed for petitioner's convenience.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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Telephone inquiries should be directed to the undersigned at (703) 306-0482.


Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

² See MPEP 711.03(c)(III)(C) and (D).